

BILL ANALYSIS

Senate Research Center

S.B. 52
By: Zaffirini
Health & Human Services
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2021 the Legislature unanimously passed S.B. 25 by Senator Lois Kolkhorst (R-Brenham) to provide essential caregivers of persons in nursing homes and assisted living facilities with visitation rights. Caregivers whose loved ones are in state hospitals should be granted similar rights. Accordingly, S.B. 52 would require the Health and Human Services Commission to assist state hospitals in establishing essential caregiver visitation policies and procedures. This change would provide certainty for caregivers and consistency among state hospitals regarding in-person visitation policies.

What's more, the committee substitute would clarify that if a patient is a minor, the patient's parent, guardian, or managing conservator may designate both of the minor patient's parents as essential caregivers. This addition ensures that hospital visitation rights for a patient's parents match the court-approved visitation rights if the patient's parents are divorced.

S.B. 52 amends current law relating to the right of state hospital patients to designate an essential caregiver for in-person visitation.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 552.203, Health and Safety Code) of this bill.

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SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 552, Health and Safety Code, by adding Subchapter F, as follows:

SUBCHAPTER F. RIGHT TO ESSENTIAL CAREGIVER VISITS

Sec. 552.201. DEFINITION. Defines "essential caregiver."

Sec. 552.202. PATIENT'S RIGHT TO ESSENTIAL CAREGIVER VISITS. (a) Provides that a patient, the patient's guardian, or the patient's legally authorized representative has the right to designate an essential caregiver with whom a state hospital may not prohibit in-person visitation.

(b) Authorizes a patient's parent, guardian, or managing conservator, if the patient is a minor, to designate both of the minor patient's parents as essential caregivers under Subsection (a).

Sec. 552.203. ESSENTIAL CAREGIVER POLICIES, PROCEDURES, AND SAFETY PROTOCOLS. (a) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) by rule, notwithstanding Section 552.202, to develop guidelines to assist state hospitals in establishing essential caregiver visitation policies and procedures. Requires that the guidelines require the hospitals to:

(1) allow a patient, patient's guardian, or patient's legally authorized representative or, for a minor patient, the patient's parent, guardian, or managing conservator, to designate for in-person visitation an essential caregiver;

(2) establish a visitation schedule allowing the essential caregiver to visit the patient for at least two hours each day;

(3) establish procedures to enable physical contact between the patient and essential caregiver; and

(4) obtain the signature of the essential caregiver certifying the caregiver will follow the hospital's safety protocols and any other policies, procedures, or rules established under this section.

(b) Prohibits a state hospital from establishing safety protocols under this section that are more stringent than the safety protocols the hospital establishes for hospital staff.

Sec. 552.204. REVOCATION OF ESSENTIAL CAREGIVER DESIGNATION. (a) Authorizes a state hospital to revoke an individual's designation as an essential caregiver if the individual violates the hospital's policies, procedures, or safety protocols established under Section 552.203.

(b) Provides that a patient, patient's guardian, or patient's legally authorized representative or, for a minor patient, the patient's parent, guardian, or managing conservator, if a state hospital revokes an individual's designation as an essential caregiver under this section, has the right to immediately designate another individual as the patient's essential caregiver.

(c) Requires the Health and Human Services Commission (HHSC) by rule to establish an appeals process to evaluate the revocation of an individual's designation as an essential caregiver under this section.

Sec. 552.205. TEMPORARY SUSPENSION OF ESSENTIAL CAREGIVER VISITS.

(a) Authorizes a state hospital to petition HHSC to suspend in-person essential caregiver visits for not more than seven days if in-person visitation poses a serious community health risk. Authorizes HHSC to deny the hospital's request to suspend in-person essential caregiver visitation if HHSC determines that in-person visitation does not pose a serious community health risk.

(b) Authorizes a state hospital to request an extension from HHSC to suspend in-person essential caregiver visitation for more than seven days. Prohibits HHSC from approving an extension for a period that exceeds seven days, and requires the hospital to separately request each extension.

(c) Prohibits a state hospital from suspending in-person essential caregiver visitation in any year for more than 14 consecutive days or 45 days total.

Sec. 552.206. PROVISION OF NECESSARY PATIENT CARE BY ESSENTIAL CAREGIVER. Prohibits this subchapter from being construed as requiring an essential caregiver to provide necessary care to a patient, and prohibits a state hospital from requiring an essential caregiver to provide the necessary care.

SECTION 2. Requires the executive commissioner, as soon as practicable after the effective date of this Act, to prescribe the guidelines and adopt the rules required by Subchapter F, Chapter 552, Health and Safety Code, as added by this Act.

SECTION 3. Effective date: September 1, 2023.